



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/941,474	08/28/2001	Kevin Zhang	NFCS-01-027	8102

7590 12/05/2003
Eric L. Maschoff
WORKMAN, NYDEGGER & SEELEY
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

EXAMINER

WOOD, KEVIN S

ART UNIT PAPER NUMBER

2874

DATE MAILED: 12/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/941,474

Applicant(s)

ZHANG ET AL.

Examiner

Kevin S Wood

Art Unit

2874

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-16 and 18-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6, 8-16 and 21-23 is/are allowed.
- 6) ☒ Claim(s) 18-20 and 24 is/are rejected.
- 7) ☒ Claim(s) 25 and 26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 August 2001 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet.
37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Response to Amendment

1. This Action is responsive to the Applicant's Amendment filed on 4 August 2003. Claims 1, 2, 6, 12, 13, 14, 16, 18, and 21 are amended. New claims 24-26 are now added. Claims 1-6, 8-16 and 18-26 are now pending in the Application.

Response to Arguments

2. Applicant's arguments, filed 4 August 2003, with respect to claims 1-5, 6, 8-16, and 21-23 have been fully considered and are persuasive. The rejections/object of claims 1-5, 6, 8-16, and 21-23 have been withdrawn. The Applicant has amended independent claims 1, 6, 12, 14, 16 and 21 as suggested by the Examiner in the interview on the 26th of June, 2003.
3. Applicant's arguments with respect to claims 18-20 and 24 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 18-20 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,343,166 to Hellman et al.

Referring to claims 18-20, Hellman et al. discloses all the limitations of the claimed invention. Hellman et al. discloses an optical filter (24) having a specified response to a light beam incident at a first location, the optical filter having an end; and a rotator (26) for positioning the incident light beam at a second location on the optical element having a desired response other than the specified response, wherein the rotator has a corresponding end shaped to receive the end of the optical element such that the optical element can be moved both rotationally and axially to a second location. See Fig. 1-3 and 6, along with their respective portions of the specification. It is clear that the holder (26) allows the filter to be rotated (tilted) and axially aligned. It is also clear that this tilting and aligning would cause the light to be incident on various locations on the surface of the filter (24) where each location would have a slightly different response.

Referring to claim 24, Hellman et al. discloses all the limitations of the claimed invention. Hellman et al. discloses a filter (24) having a plurality of responses to an incident light beam, the filter having a face; a housing (32) that contains the filter, wherein the filter is positioned within the housing such that the center of the filter may not coincide with a center of rotation of the housing, the housing having an end shaped to form a joint with a light source (22) such that the filter can be rotated about a center of rotation of the light source and such that the face of the filter can be tilted with respect to the light source. See Fig. 1-3 and 6, along with their respective portions of the

specification. It is clear that the holder (26) allows the filter to be rotated (tilted) and axially aligned. It is also clear that this tilting and aligning would cause the center of the filter to be off from the center of the housing (32).

Allowable Subject Matter

6. Claims 1-5, 6, 8-16, and 21-23 are allowed.
7. Claims 25 and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent Application Publication No. 2003/0185519 to Ushinsky

U.S. Patent Application Publication No. 2002/0118920 to Francis et al.

These references disclose the status of the art, each discloses an invention similar to the claimed invention. Neither of these references have a filing date prior to the priority date of the current invention.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin S Wood whose telephone number is (703) 605-5296. The examiner can normally be reached on Monday-Thursday (7am - 5:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney B Bovernick can be reached on (703) 308-4819. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 307-0956.

KSW


Brian Healy
Primary Examiner